

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Bush, <i>et al.</i>)	
)	
Serial No.	:	10/520,360)	
)	Group Art Unit:
Filed	:	January 5, 2005)	1612
)	
For	:	CRYSTALLINE 2,5-DIONE-3-(1-)	
		METHYL-1H-INDOL-3-YL)4-[1-)	
		(PYRIDIN-2 -YLMETHYL)PIPERIDIN-4-)	
		YL]-1H-INDOL-3-YL]-1-PYRROLE)	
		MONO-HYDROCHLORIDE)	
)	Examiner:
)	S. Qazi
)	
)	
Docket No.	:	X-14484)	Confirmation # 5540

REQUEST FOR RECONSIDERATION OF ENTRY OF IDS UNDER 37 CFR §1.97(c) AND
ENTRY OF STATEMENT UNDER 37 CFR §1.704

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants respectfully request that the Examiner reconsider the May 11, 2010 denial of entry of the Information Disclosure Statement (IDS) filed on March 2, 2010. Applicants direct the Examiner's attention to 37 CFR §1.97(c) (also MPEP §609 (c)) which states:

An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (e) of this section; or
- (2) The fee set forth in §1.17(p).

Applicants submit that the March 2, 2010 IDS was submitted prior to the May 4, 2010 Notice of Allowance and that the statement specified in paragraph (e) of 37 CFR 1.97/MEP 609 stating that each item of information contained in the IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.

Since Applicants submitted prior to the notice of allowance and submitted the required statement in paragraph (e), the Examiner erred in not entering the IDS and Applicants respectfully request that the Examiner withdraw her denial of the IDS and enter it.

Applicants also submit herewith a statement that each item of information contained in the March 2, 2010 IDS was first cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the March 2, 2010 IDS.

37 CFR 1.704 (d) states:

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The reference was cited in a foreign patent office action on February 9, 2010 and was cited to the USPTO on March 2, 2010. Applicants did not delay submitting the reference outside of the 30 day requirement. Applicants respectfully request that the accompanying statement be entered at the same time the IDS is entered.

The purpose of requiring an applicant to submit a statement under 37 CFR §1.704(d) is to promote early submission of such foreign discovered references to avoid prosecution delay. As such, Applicants respectfully request that the IDS and accompanying statement under 37 CFR §1.704(d) be entered.

Serial No. 10/520,360

If the Examiner has any questions, or would like to discuss any matters in connection with this application, she is invited to contact the undersigned at (317) 277-3537.

Respectfully submitted,

/Tina M. Tucker/
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Phone: 317-277-3537

Eli Lilly and Company
Patent Division/TMT
Lilly Corporate Center
Indianapolis, Indiana

July 2, 2010_____

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STATEMENT UNDER 37 CFR §1.704

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

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If the Examiner has any questions, or would like to discuss any matters in connection with this application, she is invited to contact the undersigned at (317) 277-3537.

Respectfully submitted,

/Tina M. Tucker/
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